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## FOREWORD

# WHITHER THE LEGAL WHALE: INTERDISCIPLINARITY AND THE SOCIALIZATION OF PROFESSIONAL IDENTITY

*Randy Frances Kandel \**

*'The time has come,' the Walrus said,  
'To talk of many things: Of shoes—and ships—and sealing-wax—  
Of cabbages—and Kings . . . .'*<sup>1</sup>

### I. AN OPENING METAPHOR

"We live in and by the law."<sup>2</sup> So begins the preface to Ronald Dworkin's award-winning book, *Law's Empire*. Professor Dworkin's words no doubt resonate with many, if not most, legal scholars and practitioners who perceive law as occupying a central role in human experience and the social order. It is perpetually problematic, however, whether Professor Dworkin's words ring true and familiar because law is, in some objective way, the structural skeleton of society or whether the perception of law comes from our more personal condition. Having been educated, indoctrinated, and initiated into our professional legal identity, the law has been injected into us and we into it. To look at ourselves is to see law; to look at the world is to see through legal lenses.

Like Jonah—or perhaps more accurately Geppeto—we are inside the legal beast.<sup>3</sup> We are both its slaves and its masters, having learned

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1. LEWIS CARROLL, *THROUGH THE LOOKING-GLASS* 78 (St. Martin's Press 1977) (1871).

2. RONALD DWORKIN, *LAW'S EMPIRE* at vii (1986).

3. From the insider's view, perceptions of reality are emotion laden—often making it difficult to disentangle cause and effect. In 1981, with Norman Mailer's help, Jack Henry Abbott published *In the Belly of the Beast: Letters from Prison*. The book documented the violent and paranoid lifestyle inculcated by an upbringing and life spent in the juvenile and adult prison systems. The book's success led to Abbott's release from prison. But the author's career ended sadly when Abbott killed a man on New York's Lower East Side—apparently misreading the man's innocent gestures for an attempt to attack him. This tragedy called into

the professional techniques to tickle its soft belly from within to make it move in the directions we select. But ironically, we remain masters only so long as we also remain slaves. When we are disgorged and adrift—both free and naked of the manipulative and commanding power of our professional identity—we begin to see and sense the shape, power, and position of the legal whale and its course in the greater sea of society.

It is therefore with great joy that I introduce a volume that aids the ongoing task of decentralizing law from its self-perceived place at the axis of the social order. The ten invited Essays in this Symposium, *Reweaving the Seamless Web: Interdisciplinary Perspectives on the Law*, represent contributions from leading scholars: Professors Alexander Morgan Capron and Vicki Michel on law and bioethics, Professors John M. Conley and William M. O'Barr on law and anthropology, Professor Leslie Pickering Francis on law and philosophy, Professor Frank Munger on law and sociology, Professor Randal Picker on law and economics, Professor R. Randall Rainey, S.J., on law and religion, Professor John Phillip Reid on law and history, Professor Carol Sanger on law and feminism, Professor Peter Meijes Tiersma on law and language, and Professor Richard H. Weisberg on law and literature.

The authors were given two tasks. First, they were asked to discuss the significant challenges and achievements of working in their respective interdisciplinary fields. Second, they were asked to explain a few of their fields' key concepts, those that might be useful to legal scholars who are nonspecialists.

This Symposium is intended to achieve multiple goals. First, despite the interdisciplinary trend of the 1990s, the status of the interdisciplines is still often perceived as peripheral to the study of law—as the conjunctive quality of the common “law and . . .” designation evidences. In bringing together under one cover a kaleidoscope of overlapping essays, we hope to help push the interdisciplines further towards the center of legal academia, thus challenging the centrality in which lawyers hold the law. Second, this Symposium is intended to initiate the nonspecialist into the basic theoretical and methodological approaches of the interdisciplines. Finally, it is intended to further the cross-fertilization among law and the interdisciplines, in hopes that new and hybrid approaches will appear.

In striving for these goals, we sought contributions that would be more than merely informative: We wanted them to be useful to legal

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question whether Abbott's paranoid perception was prior to, or the result of, his incarceration experiences. Are less hostile views of the law less tainted?

scholars in both their research and their teaching. We therefore chose authors who not only are interdisciplinary scholars but also are or have been *law* teachers in *law schools* and are sensitive to the unique constraints and opportunities of legal academia, including the need to engage in constructive dialogue with one's colleagues, the desire that one's research and teaching complement each other, and the importance of incorporating the interdisciplines into the curriculum in a way that will remain relevant and memorable to practicing attorneys.

The contributors to this Symposium responded to this challenge in different ways. Professor Munger, for example, chose to survey the law and society field with a broad brush. Others concentrated on a single example of interdisciplinarity—for instance, Professor Weisberg's discussion of the values and limits of considerate communication or Professor Picker's discussion of the game-theory approach to legal policy. Some, like Professors Conley and O'Barr and Professors Capron and Michel, concentrated on the theory of the interdiscipline; others, like Professor Reid, Professor Francis, and Professor Tiersma, on the use or potential use of the discipline by lawyers. Still others, like Professor Sanger, have focused on law teaching, while Professor Rainey criticizes the ideological barriers between the disciplines of law and religion. What the contributions have in common is an explanation and analysis of the law according to some central theoretical or methodological approach that is nondoctrinal in nature. Each thus problematizes the centrality of law by looking at the whale from some other place in the sea of competing paradigms and world views.

## II. CENTRALITY AND THE SOCIALIZATION OF LAWYERS

Much of the sense of centrality that dominates legal thinking comes from the context in which legal scholars work. Law schools and legal scholars are separated from colleagues in other disciplines in ways that create a sense of both specialness and isolation. Perhaps because of a lingering misconception that law students and law professors are forever running down to court at odd hours, or perhaps because of a subconscious fear that the practical aspects of legal studies may pollute the pristine abstractions of arts and sciences graduate students, law school buildings have traditionally been isolated from the mainstream of campus life—some are literally miles away, others are self-contained systems.

The physical isolation of law schools is both symbolic and causative of a more profound intellectual separation that affects both faculty and students. Law students and nonlaw students rarely take classes together or bump into one another on campus or in the library. Similarly, law

professors are unlikely to have informal daily encounters with faculty from other disciplines. When they emerge from their offices to chat, law professors encounter other law professors: Thus, their professionally specific ideas *and* their general intellectual world view develop with more exclusive intensity towards others of their own kind than is true in the arts and sciences.

Interdisciplinary cross-fertilization occurs, therefore, in serendipitous fashion. Postmodernism, for example, raged across the scholarly legal landscape of the 1980s. Similarly, the work of educational psychologist Carol Gilligan on gender-related differences in moral development<sup>4</sup> has become a foundational document of feminist jurisprudence—more influential on legal scholarship than in the field of psychology. But it has taken more than a decade for the narrative, interpretive, and phenomenological approaches of critical legal studies, critical race theory, and feminist jurisprudence to reestablish linkages with the comparable participant-observation-based ethnographic tradition of anthropology and the ethnomethodological school of sociology, and to benefit from the theories and insights of those disciplines.<sup>5</sup>

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4. See CAROL GILLIGAN, *IN A DIFFERENT VOICE* (1982). For an illustration of how pervasive Gilligan's influence has been outside of feminist legal studies, see Alexander M. Capron & Vicki Michel, *Law and Bioethics*, 27 LOY. L.A. L. REV. 25 (1993). Gilligan's original ideas have been expanded into a theory of legal practice that contrasts the ethics of justice and the ethics of care. As such, it has now been transplanted into bioethics theorizing to address the issue of whether adversarial rights talk is the appropriate discourse for health care giver/patient relationships. Despite its continuing vitality in legal discourse, several well-respected and prominently employed educational psychologists of my acquaintance have either never read or long forgotten her work.

5. In her contribution to this Symposium, Professor Sanger recognizes the debt that such feminist methods of research as observation and interviewing owe to the social sciences. See Carol Sanger, *Feminism and Disciplinarity: The Curl of the Petals*, 27 LOY. L.A. L. REV. 225 (1993). Much of the earliest feminist jurisprudence, however, seemed to claim that it had discovered, rather than adopted, these approaches. The claim was curious, since such methods have characterized research on law by anthropologists and sociologists for more than a century—and often for the very same reason of making visible those whom the system ignores. See John M. Conley & William M. O'Barr, *Legal Anthropology Comes Home: A Brief History of the Ethnographic Study of Law*, 27 LOY. L.A. L. REV. 41 (1993); Frank Munger, *Sociology of Law for a Postliberal Society*, 27 LOY. L.A. L. REV. 89 (1993).

The claim, and the sense of such methods as novel, derives neither from ignorance nor ego, but rather from the gulf between legal scholars who study sociocultural issues and social scientists who study legal issues. The sociolegal and legal anthropological approach is now being applied by law school-based scholars to situations which do not necessarily involve power-disenfranchised minorities. An excellent theoretical introduction is Richard K. Sherwin, *Lawyering Theory: An Overview: What We Talk about When We Talk about Law*, 37 N.Y.L. SCH. L. REV. 9 (1992). The term "lawyering theory" again illustrates the scope of semantic appropriation. Given the article's emphasis on law users and nonjudicial contexts, the approach might better be called "nonlawyering theory."

Cross-fertilization, in the form of transplanting ideas from other disciplines to legal scholarship, is sometimes so selective and arbitrary a process that Randal Picker, for example, describes it as a kind of "intellectual arbitrage"—an investment opportunity that guarantees a positive payoff in the form of distinguished publications and large numbers of citations.<sup>6</sup> Similarly, Professor Reid illustrates the selective and sometimes self-serving uses of history by lawyers and judges.<sup>7</sup>

The third aspect of separateness is legal professionalism and the prevailing vision of legal education as professional training. The gravamen of law school is not studying law. It is *becoming* a lawyer. I suspect that the diminished use of the classic Socratic method in recent years<sup>8</sup> has made being a law student less brutal to one's self-esteem than it used to be. Yet, thousands of law students still experience the first year of law school as an episode of psychic pain in which their identities are shredded and then reshaped into the identities of lawyers.

The rituals of the first year of law school loom like so many life crisis events on the path from neo-infancy to renewed adolescence. Endless deconstruction of old thought patterns and experimental construction of the habits of "thinking like a lawyer" take place informally in first-year study groups, more publicly where Socratic method is used in the classroom, most intensively in legal writing assignments, and most subtly when course materials are compressed into "outlines" in preparation for final exams.<sup>9</sup> Ultimately, the language and logic of the law cut mental grooves through which perceptions run and form a system of heuristics for analyzing all experience.<sup>10</sup>

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6. Randal C. Picker, *Law and Economics: Intellectual Arbitrage*, 27 LOY. L.A. L. REV. 127 (1993).

7. See John P. Reid, *Law and History*, 27 LOY. L.A. L. REV. 193 (1993).

8. See Leslie P. Francis, *Law and Philosophy: From Skepticism to Value Theory*, 27 LOY. L.A. L. REV. 65 (1993).

9. I still remember well the evening of the last day of classes of my first semester in law school. After a visit to a favorite local bar, at which we all consumed large amounts of beer, I climbed into the shower. Wondering, with classic first-year anxiety, whether I might slip, break a leg, and miss my first final, my thoughts suddenly jumped to a tort law analysis of the situation—duty, breach, and the like. I can still recall the visceral shock as my brain jumped from the first set of neural pathways to the second, more recently internalized.

10. Linguistics, psychology, and the social sciences converge toward a theory of the relationship between habits of thought and habits of perception. The Whorf-Sapir hypothesis posits that language structures perception because of the classification system established by words and the particular connections embedded in grammatical structures. For a general discussion of this hypothesis, see Stuart Chase, *Foreword* to LANGUAGE, THOUGHT, AND REALITY 1, 26-28 (John B. Carroll ed., 1956).

Psychologists find that certain sets of perceptions, associations, and assumptions formed through the habits of education and experience are linked together in the deep structure of the

In a growing minority of first-year curricula, appellate case opinions are supplemented by simulated prelitigation practice experiences, lessons on regulatory and administrative system legal options, and context courses incorporating humanities and social sciences. Even so, students must still develop a mastery of the internal logic of common-law precedent—syllogism, analogy, and plain language statutory interpretation<sup>11</sup>—largely without reference to the intellectual and emotional armory of the diverse perspectives they have developed in their undergraduate and prelaw lives. When, later on, students are authorized or empowered to reassert these disciplinary perspectives, they have been taught to subsume them in argumentative support of the doctrinal logic of the law. These prelaw perspectives are subordinate to legal thinking, not analytical approaches of coequal standing.<sup>12</sup>

Because the skills of thinking like a lawyer are combined with the process of being socialized to be a lawyer, lawyers' ways of looking at the world come to define lawyers and hence to seem central to their experience. Eventually, through the final initiation rites of bar exams and swearing in, *being a lawyer* becomes not merely an identity but a status and a professional role—a system of ethics and a set of interests. Lawyers, for the most part, work with and against other lawyers rather than in teams comprised of people from different specialties. To be a lawyer and to think like a lawyer is then to live in a world of lawyers.

Legal education is a particularly effective way of creating legal culture. It employs all of the best methods of socialization—education, initiation, language, and assumption of professional identity—and a

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brain, as heuristics for making conclusions, judgments, and choices. See, e.g., ROBIN M. HOGARTH, *JUDGEMENT AND CHOICE: THE PSYCHOLOGY OF DECISION* (1980).

Anthropologist Pierre Bourdieu speaks of the logic of practice, which might well embrace legal practice, as involving patterns of strategic responses learned by, and preadapted to, the practice in which one is engaged. PIERRE BOURDIEU, *THE LOGIC OF PRACTICE* 52-65 (1990). Anthropologist Catherine Lutz theorizes that the combination of cultural training and language classification results in the cultural construction of emotion. CATHERINE A. LUTZ, *UNNATURAL EMOTIONS* (1989).

11. For a discussion of how plain meaning may not be as plain as it seems, see Peter M. Tiersma, *The Judge as Linguist*, 27 LOY. L.A. L. REV. 269 (1993).

12. Whether it is regarded as the heart—or the horror—of legal education, “thinking like a lawyer” is recognized as something special that distinguishes law from other disciplines; it is both a goal and a consequence of legal education. See, e.g., Peter Rigby & Peter Severeid, *Lawyers, Anthropologists, and the Knowledge of Facts*, in *DOUBLE VISION: ANTHROPOLOGISTS AT LAW* 5 (Randy Frances Kandel ed., National Ass’n for the Practice of Anthropology Bulletin No. 11, 1992) (stating that because legal education emphasizes rule of law and reasoning by syllogism and analogy, law students have very different view toward facts than do anthropology graduate students, whose eclectic empirical training creates heightened awareness of relationship between fact and theory).

pervasive liberal ideology that conceives of law as central to the social order. Because the processes of learning and practicing law, on the one hand, and of *becoming* and *being* a lawyer, on the other, are so intimately fused, law occupies a central and structural place in both of the two great traditions that characterize legal scholarship today: the deductive/analytical and the inductive/interpretive. It is our own socialization that we carry forward in our research and teaching—whether unconsciously, acceptingly, or through our critical response.

While the deductive/analytical tradition has an interdisciplinary dimension—some law and economics, some law and philosophy—its backbone is classic doctrinal scholarship supplemented by traditional jurisprudence. Such scholarship focuses on the internal logic of the law, and the balance of policies and principles that undergird particular positions. This legal scholarship is essentially the mature application of the methods of reasoning learned in law school. Regardless of the author's political perspective, the underlying approach is grounded, often implicitly, in what Professor Munger refers to as the "ideology of legal liberalism." This is the view that law is an instrumental, formally rational, and relatively autonomous system that maintains the social order by resolving conflicts and reinforcing norms. Pursuant to the ideology of legal liberalism, instrumentalized through the methods of doctrinal analysis, law is both central to and separate from other aspects of the social order.

The second great tradition of contemporary legal scholarship is the narrative/interpretive tradition—which is characteristic of such newer approaches as critical legal studies, feminist jurisprudence, and critical race theory. The narrative/interpretive tradition has undergone a methodological evolution from self-reflection, through narrative, to empirical and qualitative field research. By adding an experiential and self-reflective dimension to legal analysis, studies in the narrative/interpretive tradition challenge the alleged objectivity and rationality of the law. They show that how law is perceived, interpreted, experienced, and used depends on the context and position of the individual. The law looks and feels very different from the perspective of the power disadvantaged: It is oppressive rather than expressive. Because much of the best work focuses on the experiences of lawyers, users, and victims of the law, the narrative/interpretive tradition has been more successful in opening up law and legal scholarship to diverse experiential perspectives and voices than in challenging the centrality of law in the social order.

The deductive/analytical and narrative/interpretive traditions converge on a point of unanimity. Both assert that the law occupies a



unique place on the axis of the social order: philosophically—through the ideology of legal liberalism—and experientially—by incorporation of the law into the self-images, egos, habits, and thought processes of trained legal professionals. The problem with this self-perceived centrality, born of our contextualized epistemology, is that we are too apt to see the mythical metaphysics of the law as an expression of how reality “is” or “ought” to be. Paradoxically, the more the view of law’s centrality is perpetuated by its practitioners, the more marginal it may become, evolving into an alien system of sanctions and rules imposed upon the unwilling.<sup>13</sup>

### III. THE INTERDISCIPLINES AND THE LAW SCHOOL CURRICULUM

How then do we pay heed to this warning and incorporate the interdisciplines into the law school curriculum? Do we do what Professor Lewis D. Solomon believes, perhaps prematurely, that some law schools have already done: shift the educational focus from doctrinal analysis to interdisciplinary analysis?<sup>14</sup> Or should we be chastened by the perennial challenge that the interdisciplines have only a minimal place in legal education?

“Isn’t it true,” goes the challenge, “that the job of law schools is to train lawyers?” And, “Isn’t the job of lawyers to do legal research and analysis, to write contracts and briefs, to negotiate and litigate, and to counsel their clients and represent them zealously within the bounds of the law?” If law schools do not concentrate on the subjects and skills that get and keep jobs for lawyers, so the argument goes, the “gap” between legal education and legal practice will continue to widen.<sup>15</sup> And if law professors, in their own research, turn away from the study of law as

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13. “By definition, the more external the legal system, the more any conflict introduced into it or induced by it will take on meanings not originally relevant to the conflicting parties.” Robert L. Kidder, *Toward an Integrated Theory of Imposed Law*, in *THE IMPOSITION OF LAW* 289, 297 (Sandra B. Burman & Barbara E. Harrell-Bond eds., 1979).

14. Lewis D. Solomon, *Perspectives on Curriculum Reform in Law Schools: A Critical Assessment*, 24 U. TOL. L. REV. 1, 1 (1992).

15. The remarks of Professor Harry Wellington typify this perspective:

Few things are clear about legal education, but there is at least one feature of our noble calling that is a truth universally acknowledged. As a group, law teachers today are more academically oriented than they were 25 to 30 years ago. The converse of this truth is that they are less professionally oriented. My colleagues today care more about intellectual movements in faculties of arts and sciences than they used to; they care less about the activities of the bar, and, perhaps, even the output of the bench.

Harry H. Wellington, *Challenges to Legal Education: The “Two Cultures” Phenomenon*, 37 J. LEGAL EDUC. 327, 327 (1987).

it has always been known, the gap between faculty and students will widen, eviscerating the quality of legal education.<sup>16</sup>

The basis of legal education has traditionally been the progressive refinement of a student's professional skills, honed through the successive study of various substantive areas of law. A chronic tension exists regarding the proper mix of substantive courses, which merely set forth the black letter law, with skills courses, which forge the linkages between knowledge of the law and the exigencies of legal practice. Thus, those concerned with upholding and improving the quality of legal practice stress the importance of practical training in law schools. The report of the American Bar Association Section of Legal Education and Admissions to the Bar, while acknowledging that the ostensible gap is actually a continuum, recommends renewed emphasis on practice skills—such as drafting, negotiation, and advocacy—core curricula, and values.<sup>17</sup> “Values,” as used in this context, means the ethics associated with the Model Rules of Professional Conduct<sup>18</sup> and the Model Code of Professional Responsibility<sup>19</sup>—those values that help lawyers to maintain individual objectivity and independence and to self-police legal practice, thus preserving the bar's privileged status as a self-governing profession.<sup>20</sup> In this view of legal education, the development of those workaday virtues that make lawyers different from nonlawyers, and the midrange theory underlying daily law office decision making is given paramount importance. Other types of learning—those that seem to be peripheral to both the work of substantive legal analysis and the business of legal training—

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16. The gap between what law professors do and teach and what law students need to learn to be practitioners is both a recurrent and misunderstood concern. See, e.g., THE TASK FORCE ON LAW SCH. AND THE PROFESSION: NARROWING THE GAP, AMERICAN BAR ASS'N, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM (1992) [hereinafter TASK FORCE]. “Legal educators and practicing lawyers should stop viewing themselves as separated by a ‘gap’ and recognize that they are engaged in a common enterprise—the education and professional development of the members of a great profession.” *Id.* at 3.

17. See *id.* at 135-221 (outlining and discussing “The Statement of Fundamental Lawyering Skills and Professional Values”).

18. MODEL RULES OF PROFESSIONAL CONDUCT (1983).

19. MODEL CODE OF PROFESSIONAL RESPONSIBILITY (1980).

20. TASK FORCE, *supra* note 16, at 119-20.

[T]he legal profession's relative autonomy carries with it special responsibilities of self-government.

... If a single public profession of shared learning, skills and professional values is to survive into the 21st century, the law schools ... must ... work for the perpetuation of core legal knowledge together with the fundamental lawyering skills and professional values that identify a distinct profession of law throughout the United States.

*Id.*

are regarded as occupying some separate and discrete place in legal education, even by those who consider them important.<sup>21</sup>

Familiar as this debate seems, it is driven by faulty dichotomies—the unfortunate legacy of the Langdellian method—between lawyer training and legal education and between professional education and graduate school education. The chronological coincidence of the introduction of the scientific/syllogistic method at Harvard Law School in the 1870s and the efforts, commenced several years later, by the organized bar to improve and standardize legal education by making law school attendance a prerequisite to bar admission and practice,<sup>22</sup> led to the enshrinement of the casebook method as the paradigm of law school teaching. The official demise of legal apprenticeship ended the participant-observation method of legal education through which aspiring attorneys learned the realities of the lives and needs of both clients and lawyers while simultaneously learning legal doctrines and techniques.<sup>23</sup> Further, the decision to make law schools postgraduate institutions resulted in the study of law being separated from the study of philosophy, political science, economics, and other related subjects. Because the United States differs in this respect from almost every other nation,<sup>24</sup> American law students do not absorb the law within an integrated intellectual matrix the way our international colleagues do. Further, because the common-law legal system is “common” only to those legal systems derived from the English tradition, American law students also receive less training in comparative and international law than do students in many civil law countries.

Good as it may be for teaching legal analysis, the casebook/doctrinal method of legal education, even as it is now supplemented by other linear and electronic materials, is chronically dissatisfying to both teachers and students because it seems to be neither practical nor theoretical

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21. For example, Dean John Sexton of New York University Law School, in a speech enthusiastically explaining the changes in his school's curriculum, described the “situation method” of teaching lawyering and the increase in interdisciplinary courses as two distinctly different ways of complementing the casebook method. John Sexton, *The Preconditions of Professionalism: Legal Education for the Twenty-First Century: The Twelfth Blankenbaker Lecture*, 52 MONT. L. REV. 331, 341-42 (1991).

22. TASK FORCE, *supra* note 16, at 106.

23. I do not here advocate a return to the haphazard system of legal apprenticeship in which those who sought to be attorneys were used as drones and “go-fers.” But experiential learning through real life agendas, personalities, and issues adds a dimension to understanding that is irreplaceable. See Robert J. Condlin, “Tastes Great, Less Filling”: *The Law School Clinic and Political Critique*, 36 J. LEGAL EDUC. 45, 63-77 (1986) (advocating fieldwork immersion of clinical training in law firms coupled with critical tutorials with clinical professors as superior to law school based clinics).

24. TASK FORCE, *supra* note 16, at 4.

enough.<sup>25</sup> Wedging its midlevel analyses between the practical and intellectual experiences of the law, the casebook method artificially juxtaposes them. Casebooks and doctrinal study of the substantive law continue to be treated as the kernel of legal education. A more realistic metaphor for the casebook method would be to think of it as a kind of educational white bread—a standardized solution for efficiently meeting the minimum nutritional standards of developing lawyers. Because we have met the requirements of mass mental feeding by purging legal education of the visceral experiences apprentices receive and the abstract theoretical mastication graduate students must do, we are forever faced with the task of restoring them.

The pressure to do so has always been there. As late as 1950, half of the practicing attorneys in the United States were not law school graduates. By 1935 Harvard law students were actively protesting against the casebook method and the “blandness” of the law school generally.<sup>26</sup> As early as 1928, Columbia Law School published a report entitled *Summary of Studies in Legal Education by the Faculty of Law of Columbia University*, which chronicled the work of ten faculty committees that had labored for two years studying the school’s curriculum.<sup>27</sup> The report recommended restructuring the entire curriculum “along functional lines,” according to a social engineering type of law and society program.<sup>28</sup> A similar self-study in 1988 resulted in the revamping of the Columbia first-year curriculum to include the courses Introductory Law and Economics and Perspectives on Contemporary Legal Thought<sup>29</sup>—thus illustrating that the current “law and . . .” movement is merely the contemporary permutation of the ongoing effort to provide full educational nutrition to law students.

Interdisciplinary nourishment vitally engages students in the continuous reconceptualization of the relationships among themselves, the profession, the law, its users, and the broader social and moral order. Virtually all the authors in this collection confront the problem of the appropriate legal texture for an increasingly pluralistic society. Law and

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25. See Robert S. Summers, *Fuller on Legal Education*, 34 J. LEGAL EDUC. 8, 15 (1984).

26. ROBERT STEVENS, *LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S* 137 (1983).

27. *Id.* at 137-38.

28. *Id.*

29. Solomon, *supra* note 14, at 7-8. The “Perspectives” course, replacing the required second-year selection of either Legal History, Jurisprudence, or Comparative Law, was “designed to help students explore the major historical and philosophical influences on modern legal ideas and institutions—legal realism, critical legal studies, law and justice, law and economics, critical race theory and feminist legal theory.” *Id.* at 8.

sociology, anthropology, feminism, and bioethics facilitate the experience, understanding, and incorporation of the many contextualized microlegal cultures of the users and nonusers of the formal law. The methods of these disciplines, integrated into the practice of law, can fire the search for solutions that "work by the light of local knowledge."<sup>30</sup> Law and philosophy and law and religion force students to struggle on a macrolevel with issues of diversity and the social order. Do we protect diversity by expanding protections for individual freedom and choice, as Professor Francis's Essay suggests, or do we forge a more wide-reaching moral consensus as Professor Rainey's contribution recommends?<sup>31</sup>

The interdisciplines also sharpen the craft of practice. As the Essays by Professors Reid, Tiersma, and Weisberg illustrate, lawyers can learn much about the strategic use of history, words, syntax, and discourse by employing the methods and insights of history, linguistics, and the humanities.

On another level, the interdisciplines can play a significant role in rendering the inner dialogue between lawyers and the law more critical and less egoistic. Professor Weisberg provides a hair-raising description of the Vichy lawyers throwing themselves into the technicalities of the anti-Semitic laws.<sup>32</sup> This exemplifies the dangers that may result from a narrow technocratic sense of one's professional identity in which legal doctrine and ethics narrowly defined are divorced from more basic social and moral issues. Although Professor Weisberg's example is extreme, a legal education that largely divorces the study of law from the study of other subjects and simultaneously resocializes lawyers into a thoroughgoing professional identity raises real dangers that attorneys may "split" their professional selves from their human selves,<sup>33</sup> and be lured into unreflective complacency and compliance.

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30. By this phrase, Clifford Geertz refers to the customs, values, world views, practices, traditions, and understandings of the people who use the law. CLIFFORD GEERTZ, *LOCAL KNOWLEDGE: FURTHER ESSAYS IN INTERPRETIVE ANTHROPOLOGY* 170-71 (1983). To be relevant, law must incorporate local knowledge.

31. See R. Randall Rainey, S.J., *Law and Religion: Is Reconciliation Still Possible?*, 27 *LOY. L.A. L. REV.* 147 (1993).

32. See Richard H. Weisberg, *Three Lessons from Law and Literature*, 27 *LOY. L.A. L. REV.* 285 (1993).

33. Mental "splitting" or "doubling" through intensive socialization into a seemingly internally logically consistent system without external critique enabled, for example, Nazi doctors to commit atrocities in spite of their Hippocratic oaths. See ROBERT J. LIFTON, *THE NAZI DOCTORS* (1986).

For a discussion of the difficulties and possibilities of reintegrating the professional and moral selves, see Sanford Levinson, *Identifying the Jewish Lawyer: Reflections on the Construction of Professional Identity*, 14 *CARDOZO L. REV.* 1577 (1993). Comments on Levinson's article may be found in Jerome Hornblass, *The Jewish Lawyer*, 14 *CARDOZO L. REV.* 1639

The task of the interdisciplines in the law school curriculum is, in part, to enable students to construct legal identities that incorporate their emotional, intellectual, and moral identities. It is also to teach them how to use this holistic perspective in their later practices. How then should interdisciplinary nutrition be incorporated into the law school curriculum? If we continue to think of Langdellian white bread as the proper basic food for law students, it makes sense to think of interdisciplinarity in dosage form. What should be the Recommended Daily Allowances of the interdisciplines for maximally efficient student nutrition? Should they be given like vitamins, in small daily dosages in substantive classes? As required but separate courses in the first-year curriculum? Or, like powerful medicines, in specialized seminars to cure the burnout of the second half of law school?

Perhaps there is a better approach: to reconceptualize legal education on a whole-grain model and locate doctrinal and skills instruction within the nutritive medium of greater experiences and ideas. If interdisciplinarity is to be pervasive, are there no limits other than the predilections of law professors? If the goal is whole-grain nourishment, how are we to separate the wheat from the chaff? The real nourishment from the puff pastry? I would agree with Professor Wellington that the test of nutritional value is ultimately relevancy, broadly defined.<sup>34</sup> Law is ultimately a purposive and judgmental discipline, laying down real rules for real people and solving real conflicts with consequences in real time. Curricula, like scholarship, should be responsive to this consideration.

There are many possible ways to define relevancy. One possible way is to eliminate what seems exotic or arcane. But this is an unsatisfactory approach, because what seems exotic may be very close to home. In my own Law and Anthropology class, for example, students consider some seemingly exotic materials—a mediation by the !Kung San in the Kalahari Desert over a dispute between two men claiming ownership of a hunted animal and a criminal trial in the People's Republic of China, which looks to Western eyes like a moral confessional. Yet such materials are excellent teaching tools for such closer-to-home jurisprudential issues as the balance of individual rights and communitarian responsibilities and such practice-oriented considerations as the respective roles of mediation, arbitration, and trial.

A second test for relevancy might be integratability: Either eliminate—or relegate to tiny seminars—whatever does not seem to naturally

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(1993), and Russell G. Pearce, *Jewish Lawyering in a Multicultural Society: A Midrash on Levinson*, 14 CARDOZO L. REV. 1613 (1993).

34. See Wellington, *supra* note 15, at 329-30.

integrate into a more mainstream substantive law class. But the integration test also fails because the ease of integration is usually a matter of energy and effort. As the Essays by Professors Sanger and Tiersma illustrate, feminism and linguistics can open up horizons for students in an ordinary contracts or criminal law class.<sup>35</sup>

Problem focus is a third possible test. Under this test, interdisciplinary materials should only be used if they help answer problems posed by the law.<sup>36</sup> But this test is also unsatisfactory because it frustrates the possible creative contributions of the interdisciplines by making them subservient to existing legal paradigms. The review of research on everyday users of the law by Professor Munger and Professors Conley and O'Barr and the discussion of feminist method by Professor Sanger illustrate that the interdisciplines are often most influential when they succeed in rendering visible and significant that which has been previously hidden or ignored by the formal law.

Relevancy to practice is a fourth possible test. But it, too, ultimately gives way as reflecting a false dichotomy. Again, my own Law and Anthropology class can serve as an illustration since it is one which, at first glance, seems to be remote from teaching practice skills. In the class, each student is required to produce an ethnography focused on conflict, negotiation, or dispute settlement in some definable group or context—ethnic, interest, or community-based—on the basis of participant observation conducted during the course of the semester.

The fieldwork-based ethnography has, *inter alia*, some specific practice-related values. It enables the students to appreciate the multiple contexts and cultures in which law is used and made, thereby sensitizing them to the people they may encounter in practice. Second, it trains them to use ethnographic research methods investigatively and to obtain a contextualized understanding of clients and cases in an in-depth way not possible through such standard methods as client interviewing and discovery. In the usual skills class or training, students learn to translate facts given by clients into legal categories and arguments. The result is often to think that the legal categories are primary or objective—and that other information is noise. Through ethnographic research the students

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35. Leslie Bender, *A Lawyer's Primer on Feminist Theory and Tort*, 38 J. LEGAL EDUC. 3 (1988), and Mary I. Coombs, *Crime in the Stacks, or A Tale of a Text: A Feminist Response to a Criminal Law Textbook*, 38 J. LEGAL EDUC. 117 (1988), provide other examples of how feminism can be incorporated into the most basic law school subjects.

36. Cf. Jean G. Zorn, *Lawyers, Anthropologists, and the Study of Law: Encounters in the New Guinea Highlands*, 15 LAW & SOC. INQUIRY 271 (1990) (demonstrating that anthropologists and legal scholars have not been as useful to each other as they might have been because they do not ask same questions).

learn how legal culture and client culture mutually construct each other and how to develop the legal imagination to translate the needs of clients into law.

The flip side of such fieldwork-based ethnographic research is the three-year "lawyering track" recently introduced at New York University School of Law. Beginning with a series of simulations, the lawyering exercises combine the methods of the social sciences and the humanities. Students gain a holistic perspective of lawyers' roles and obligations, and learn to critically craft strategies for helping clients through the use of the methods of ethnography, participant observation, and literary criticism.<sup>37</sup> The practice component proceeds in conjunction with an ongoing research focus on "lawyering," which draws heavily on the interdisciplines.<sup>38</sup>

Exotica, integratability, problem focus, and practice relationship all seem poor candidates for being the bright line rule to determine the test of relevancy for the interdisciplines. I recommend a test that is both more intuitive and more flexible. It is a test that balances the seemingly contradictory concerns of decentralizing the law and rendering the interdisciplines relevant to it.

Relevancy, as I use it here, is reciprocal. Not only should the interdisciplines be relevant to the law but the law must be relevant to the subjects of the interdisciplines—the everyday users of the law and the broader social, moral, and economic order. It is the job of the interdisciplines to persistently call the law to task and demand that it be responsive. It is when the law and the insights revealed by the interdisciplines are palpably incongruent that the interdisciplines are most useful, both in revealing what is not working and in suggesting how it might be made to work. The test of relevancy I would recommend is, therefore, the test of the "Ouch!" and the "Ah ha!": the first for the critique that exposes the illusion and the second for the work that inspires the solution. The merely interesting, or "Ho hum," I would avoid.

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37. Sexton, *supra* note 21, at 331.

38. Peggy C. Davis, *Law and Lawyering: Legal Studies with an Interactive Focus*, 37 N.Y.L. SCH. L. REV. 185 (1992) (studying tradition of contextual criticism, "done with the New York University Lawyering Theory Colloquium, an interdisciplinary collaboration of students and faculty interested in the analysis of *lawyering* as a means to a deeper understanding of *law*"). Other law schools have also integrated substantive skills and critical learning. City University of New York School of Law at Queens College, which focuses on preparing students for public interest and inner city legal practice, has used a total immersion first year simulation involving an administrative hearing. In their respective relatively rural states, Vermont Law School and the University of Montana School of Law have used "law firm simulations" to prepare students for small to mid-size law firm practice.



The authors in this collection have much in them of “Ouch!” and “Ah ha!” We hope that readers who have previously been hesitant to do so will adopt interdisciplinarity not merely as a sidelight to erudite scholarship but as a habit of mind—a habit of mind that becomes part of their professional self-identity and informs their approach to all areas of legal scholarship, teaching, and practice. The law has been described as a seamless web. Hopefully, by exploring the working relationship between law and the other disciplines, we will come to see this web as being comprised of many diverse strands—each of us weaving our own.